

REMARKS/ARGUMENTS

Favorable reconsideration of this application, in light of the following discussion, is respectfully requested.

Claims 1, 3, and 5-21 are pending in this case. Claims 1, 5, 9, 10, 14, 16, 17, and 21 are amended by the present amendment with support in the originally filed disclosure at least at Fig. 3 and at paragraphs [0083] to [0085] and [0099] to [0112]. Thus, no new matter is added.

In the outstanding Office Action, Claims 1, 14-16, and 21 were rejected under 35 U.S.C. § 103(a) as unpatentable over Dantu, et al. (U.S. Pub. No. 2006/0233137, herein “Dantu”)¹ in view of Hayashi, et al. (U.S. Patent No. 6,598,071, herein “Hayashi”), further in view of Perkins, et al. (U.S. Pub. No. 2003/0202506, herein “Perkins”); Claims 3 and 6 were rejected under 35 U.S.C. § 103(a) as unpatentable over Dantu in view of Hayashi and Perkins, further in view of Cheng, et al. (U.S. Pub. No. 2002/0150094, herein “Cheng”); Claims 5, 9, and 13 were rejected under 35 U.S.C. § 103(a) as unpatentable over Dantu in view of Hayashi and Perkins, further in view of Sekine, et al. (U.S. Pub. No. 2001/0024429, herein “Sekine”); Claims 7, 8, 11, and 12 were rejected under 35 U.S.C. § 103(a) as unpatentable over Dantu in view of Hayashi and Perkins, further in view of Cheng and Cetin, et al. (U.S. Pub. No. 2004/0028064, herein “Cetin”); Claim 10 was rejected under 35 U.S.C. § 103(a) as unpatentable over Dantu in view of Hayashi and Perkins, further in view of Sekine and Furukawa, et al. (U.S. Pub. No. 2002/0009073, herein “Furukawa”); Claim 17 was rejected under 35 U.S.C. § 103(a) as unpatentable over Dantu in view of Hayashi and Perkins, further in view of Johansson, et al. (U.S. Pub. No. 2002/0080752, herein “Johansson”); and Claims 18-20 were rejected under 35 U.S.C. § 103(a) as unpatentable

¹ Applicants note that Dantu, which was filed on June 26, 2006, is not prior art against the present application, which was filed on September 16, 2003. The parent application of Dantu: U.S. Patent No. 7,068,624, was filed on February 25, 2000 and should have been cited in the rejections instead. Further, Claim 14 is not listed among the rejected claims at page 2 but is discussed at page 5 as being rejected based on Dantu, Hayashi, and Perkins.

over Dantu in view of Hayashi and Perkins, further in view of Johansson and Ludwig, et al. (U.S. Patent No. 6,816,471, herein "Ludwig").

At the outset, Applicants and Applicants' representative thank Supervisory Patent Examiner Thomas and Examiner Scott for the courtesy of an interview with Applicants' representative on June 9, 2010. The arguments presented during that interview are substantially repeated herein.

As discussed during the interview, the rejections of independent Claims 1, 14, 15, and 21 in the outstanding Office Action are deficient with respect to several of the claimed elements. However, for succinctness and clarity, only a subset of the deficiencies are discussed herein based on SPE Thomas's comments during the interview that a further search will be conducted in this case.

Claim 1 is directed to a mobile communication system and recites, *inter alia*, "a server apparatus, the server apparatus dynamically switching which of the at least one of the plurality of relay routers is the one of the at least one of the plurality of relay routers that multicasts the data being transmitted from the correspondent terminal to the mobile terminal, based on the movement of the mobile terminal or the correspondent terminal changing which of the plurality of relay routers is present on each of the one or more paths from the correspondent terminal to the mobile terminal."

With regard to this element of Claim 1, the outstanding Office Action asserts Hayashi as teaching the features.

However, as discussed during the interview, Hayashi is directed to dynamically switching which server performs communication with a given client in order to control the overall traffic on the network.

As discussed during the interview, both the server and the client computers are stationary, as described at least at column 2, lines 37-46, of Hayashi. Thus, Hayashi cannot

teach or suggest dynamically switching anything “based on the movement of the mobile terminal or the correspondent terminal.”

Further, as noted above, this is one among many deficiencies of the outstanding Office Action with regard to the claimed invention.

For example, while arguments have been presented herein as to the basis for “dynamically switching,” as recited by Claim 1, Hayashi is also deficient as to what is switched.

That is, Claim 1 requires a server apparatus dynamically switching which of the relay routers multicasts data based on the presence of that relay router on each of a plurality of paths. Instead, in Hayashi, the communication system switches traffic to a given server, and nothing in Hayashi even describes the servers as multicasting data.

Dantu and Perkins fail to cure the deficiencies of Hayashi and are not assertive for the features discussed above as deficient in Hayashi with regard to Claim 1.

Further, Cheng, Sekine, Cetin, Furukawa, Johansson, and Ludwig, which are additionally asserted against the dependent claims, also fail to cure the deficiencies of Hayashi discussed above and are not asserted for the features discussed above as being deficient in Hayashi.

Thus, Applicants respectfully request that the rejections under 35 U.S.C. § 103(a) of Claim 1 and Claims 3, 5-13, and 16-20, which depend therefrom, be withdrawn.

Claim 15, though differing in scope and statutory class from Claim 1, patentably defines over the cited references for reasons that are similar to those discussed above with regard to Claim 1. Thus, Applicants respectfully request that the rejection of Claim 15, under 35 U.S.C. § 103(a) be withdrawn.

Claim 14 is directed to a server apparatus and recites, *inter alia*, “a path information acquisition part configured to acquire, from each access router, path information between a

first relay router connected to the correspondent terminal as a start point and each of the access routers used in the multipath handover state by the mobile terminal as an end point, in conjunction with movement of the mobile terminal or the correspondent terminal.”

The outstanding Office Action asserts, at page 5, that Dantu teaches the above-quoted features at paragraphs [0086] and [0087].

However, paragraph [0086] of Dantu describes that, after a call is set up, traffic is routed by the radio routing protocol 79, and two anchoring points are provided for traffic distribution. Paragraph [0087] of Dantu describes that the edge gateway forwards traffic through a pre-established or dynamic MPLS path to the current primary node in an active list. Paragraph [0015] of Dantu, which also appears to be asserted for the above-quoted features, describes that an active set of wireless routers includes a primary wireless router and one or more secondary wireless routers for soft handoff of the call.

However, nothing in the cited paragraphs or elsewhere in Dantu describes anything configured to acquire “from each access router...used in the multipath handover state by the mobile terminal as an end point,” path information between a first relay router connected to a correspondent terminal as a start point and the mobile terminal as a end point. The assertions regarding Dantu, as discussed above, are difficult to understand in light of the requirements of Claim 14.

Hayashi and Perkins are not asserted for the above-quoted features of Claim 14 and fail to cure the deficiencies of Dantu with regard to Claim 14. Thus, Applicants respectfully request that the rejection of Claim 14 under 35 U.S.C. § 103(a) be withdrawn.

Claim 21, though differing in scope from Claim 14, patentably defines over Dantu, Hayashi and Perkins for reasons that are similar to those discussed above with regard to Claim 14. Thus, Applicants respectfully request that the rejection of Claim 21 under 35 U.S.C. § 103(a) be withdrawn.

Accordingly, the outstanding rejections are traversed and the pending claims are believed to be in condition for formal allowance. An early and favorable action to that effect is, therefore, respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.



Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Customer Number

22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)

Usha Munukutla-Parker
Registration No. 61,939